

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

**RACHEL MOORE,**

**Plaintiff,**

**v.**

**OLLIE’S BARGAIN OUTLET,  
INC.,**

**Defendant.**

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

**Case No.: 1:23-cv-01764-CLM**

**JURY TRIAL DEMANDED**

---

**SECOND AMENDED COMPLAINT**

---

**INTRODUCTION**

Comes NOW the Plaintiff, Rachel Moore, pursuant to this Court’s Memorandum Opinion and Order [Doc. 13], files this Second Amended Complaint against Defendant, Ollie’s Bargain Outlet, Inc., for personal injuries and other damages sustained by Plaintiff as a result of a dangerous condition on or about November 30, 2021. In further support, Plaintiff states as follows:

**PARTIES**

1. Plaintiff was a resident and citizen of Broward County, Florida, residing at 12727 NW 21<sup>st</sup> Place, Coral Springs, Florida 33071 at all times material to the issues in this case.

2. Defendant is a foreign corporation organized under the laws of the State of Pennsylvania with its principal place of business at 6295 Allentown Blvd., Ste. 1, Harrisburg, PA 17112 and is registered to do business in the state of Alabama at all times material to the issues in this case. Defendant may be served with this Amended Complaint through its counsel of record.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction of the causes of action alleged in this Complaint pursuant to 28 U.S.C. § 1332 as complete diversity exists between the parties and the amount in controversy exceeds \$75,000.00.

4. The incident giving rise to this Complaint occurred in Talladega County, Alabama.

5. Since filing the original Complaint, Defendant has removed this case to Federal Court, invoking federal diversity jurisdiction, and therefore venue is proper in the Northern District – Eastern Division pursuant to 28 U.S.C. § 1391(a)(2).

### **APPLICABLE FACTS**

6. On or about November 30, 2021, Plaintiff was at the Defendant's location of Ollie's Bargain Outlet at 540 W Fort Williams St., Sylacauga, AL 35150, in Talladega County, Alabama.

7. At said time and place, Plaintiff was an invitee upon the premises of the Defendant in Talladega County, Alabama.

8. At said time and place, Plaintiff attempted to shop, as a normal patron, in the Defendant's store.

9. At said time and place, Defendant created and improperly maintained a dangerous condition by poorly positioning an industrial rubber floor mat over a gap in the floor causing the mat to be in an unsafe manner.

10. At said time and place, due to the poor placement of the industrial rubber floor mat, Plaintiff tripped as her foot was caught on a ridge of the mat and fell, causing injury.

11. At said time and place, Defendant was responsible for the maintenance of the aforementioned location and the industrial rubber floor mat.

### **COUNT ONE – NEGLIGENCE**

12. Plaintiff re-alleges and incorporates paragraphs 6 through 11 of this Amended Complaint as if they were fully and completely set forth herein.

13. At said time and place, Plaintiff fell when Defendant created and improperly maintained a dangerous condition, specifically the poor positioning and placement of an industrial rubber floor mat over a gap in the floor, at 540 W Fort Williams St., Sylacauga, AL 35150 in Talladega County, Alabama, with actual or constructive knowledge that Defendant dangerously created and maintained the

poorly positioned industrial rubber floor mat and Defendant allowed the poor placement to be present without warning to the Plaintiff of the presence danger.

14. In causing said known dangerous condition to persist on that certain premises described hereinabove, Defendant:

- (a) Negligently failed to exercise ordinary care.
- (b) Negligently failed to cure a known danger.
- (c) Negligently failed to warn Plaintiff of said known danger.
- (d) Otherwise acted in negligent disregard of the rights and safety of the Plaintiff and other business invitees.

15. The Plaintiff avers that the acts and conduct of the Defendant constitutes common law negligence.

16. As the proximate consequence of said negligence, Plaintiff was caused to suffer personal injuries, pain, suffering and other damages.

WHEREFORE, Plaintiff demands judgment against the Defendant, Ollie's Bargain Outlet, Inc., for all damages, court costs, and attorney's fees to which Plaintiff is entitled. Furthermore, Plaintiff demands any further damages in such an amount as this Court may determine.

### **COUNT TWO – WANTONNESS**

17. Plaintiff re-alleges and incorporates paragraphs 6 through 11 of this Amended Complaint as if they were fully and completely set forth herein.

18. At said time and place, Defendant acted in such a wanton manner, with a reckless or conscious disregard, in creating and improperly maintaining a known dangerous condition, specifically the poor positioning and placement of an industrial rubber floor mat over a gap in the floor, at 540 W Fort Williams St., Sylacauga, AL 35150 in Talladega County, Alabama, and failing to cure or warn invitee of said poor placement, so as to:

- (a) cause injury to Plaintiff due to the said dangerous condition, and
- (b) cause Plaintiff to undergo medical appointments, and
- (c) cause Plaintiff to suffer and sustain injuries and damages.

19. In causing said known dangerous condition to persist on that certain premises described hereinabove, Defendant:

- (a) Wantonly failed to exercise ordinary care.
- (b) Wantonly failed to cure a known dangerous condition.
- (c) Wantonly failed to warn Plaintiff of said known dangerous condition.
- (d) Otherwise acted in wanton disregard of the rights and safety of the Plaintiff and others business invitees.

20. The Plaintiff avers that the acts and conduct of the Defendant constitutes wantonness.

21. As the proximate consequence of said negligence and wantonness, Plaintiff was caused to suffer personal injuries, pain, suffering and other damages.

WHEREFORE, Plaintiff demands judgment against the Defendant, Ollie's Bargain Outlet, Inc., for all damages, court costs, and attorney's fees to which Plaintiff is entitled. Furthermore, Plaintiff demands any further damages in such an amount as this Court may determine.

**A JURY TRIAL IS HEREBY DEMANDED ON ALL COUNTS**

This August 23, 2024.

Respectfully submitted,

/s/ Karl Dover

KARL DOVER

GREGORY R. BUCHANAN

ATTORNEYS FOR THE PLAINTIFF

**OF COUNSEL:**

**SLOCUMB LAW FIRM, LLC**

3500 Blue Lake Drive, Ste. 450

Birmingham, AL 35243

Tel. No. (205) 378-6788

Fax No. (205) 533-7557

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this date, August 23, 2024, using the CM/ECF filing system which will send electronic notification of such filing, served a copy of the foregoing pleading upon all counsel of record:

J. Allen Sydnor, Jr.  
HUIE, FERNAMBUCQ & STEWART, LLP  
3291 US Highway 280, Suite 200  
Birmingham, Alabama 35243  
Telephone (205) 251-1193  
Facsimile (205) 251-1256  
Email: asydnor@huielaw.com

/s/ Karl Dover  
KARL DOVER  
OF COUNSEL